

FILED
CLERK

2:54 pm, Jan 29, 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THOMAS GESUALDI, LOUIS BISIGNANO,
ANTHONY D'AQUILA, MICHAEL
O'TOOLE, MICHAEL BOURGAL, FRANK
H. FINKEL, JOSEPH A. FERRARA, SR.,
MARC HERBST, DENISE RICHARDSON,
and THOMAS CORBETT as Trustees and
fiduciaries of the Local 282 Welfare Trust Fund,
the Local 282 Pension Trust Fund, the Local
282 Annuity Trust Fund, the Local 282 Job
Training Trust Fund, and the Local 282
Vacation and Sick Leave Trust Fund,

Plaintiffs,

-against-

J.M.R. CONCRETE CORP,

Defendant.
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APPEARANCES:

Trivella & Forte, LLP

Counsel for the Plaintiffs

1311 Mamaroneck Avenue, Suite 170

White Plains, New York 10605

By: Jonathan Bardavid, Esq.

NO APPEARANCES:

The Defendant

SPATT, District Judge.

On July 29, 2016, the Plaintiffs, Thomas Gesualdi, Louis Bisignano, Anthony D'Aquila, Michael O'Toole, Michael Bourgal, Frank A. Finkel, Joseph A. Ferrara, Sr., Marc Herbst, Denise Richardson, and Thomas Corbett, as the trustees and fiduciaries of the Local 282 Welfare Trust Fund, the Local 282 Pension Trust Fund, the Local 282 Annuity Trust Fund, the Local 282 Job Training Trust Fund, and the Local 282 Vacation and Sick Leave Trust Fund (together, the

ADOPTION ORDER

16-cv-4210 (ADS) (SIL)

“Plaintiffs”), commenced this action under the provisions of the Employee Retirement Income Security Act of 1974, as amended, and the Labor Management Relations Act of 1947, against the defendant, J.M.R. Concrete Corp. (the “Defendant”). By this action, the Plaintiffs, who are the trustees of jointly-administered multiemployer benefit plans, seek to recover allegedly delinquent fringe benefit contributions that the Defendant was allegedly obligated to make pursuant to the terms of a collective bargaining agreement, together with associated damages under the statutes, including interest, liquidated damages, attorneys’ fees, and costs.

On February 2, 2017, the Clerk of the Court noted the default of the Defendant.

On July 10, 2017, the Plaintiffs moved for a default judgment.

On July 11, 2017, the Court referred this matter to United States Magistrate Judge Steven I. Locke for a recommendation as to whether the motion for a default judgment should be granted, and if so, what relief should be awarded.

On January 11, 2018, Judge Locke issued a Report & Recommendation (“R&R”) recommending that (1) the default judgment be granted; and (2) that the Plaintiffs be awarded total damages of \$177,700.61 through May 31, 2017 as well as interest on unpaid contributions from May 31, 2017 through the Entry of Judgment in the amount of \$53.69 per day and accrual of liquidated damages on unpaid contributions from May 31, 2017 through the Entry of Judgment in the amount of \$53.69 per day.

More than fourteen (14) days have elapsed since service of the R&R on the Defendant, who has failed to file an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. There being no objection to Judge Locke’s R&R, it is hereby

ORDERED, that Judge Locke's Report and Recommendation is adopted in its entirety. The Court (1) grants the Plaintiffs' motion for a default judgment; and (2) awards the Plaintiffs \$177,700.61 in damages, plus additional prejudgment interest on unpaid contributions and the accrual of liquidated damages on unpaid contributions, which continuously accrues \$53.69 per day from May 31, 2017 until the date of judgment; and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiffs as set forth above; and it is further

ORDERED, that the Clerk of the Court is directed to close the case.

SO ORDERED.

Dated: Central Islip, New York
January 29, 2018

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge